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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,463	10/18/2001	Jeremy Burr	5038-149	3948

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Eitan, Pearl, Latzer & Cohen Zedek, LLP
10 Rockefeller Plaza
Suite 1001
New York, NY 10020

EXAMINER

ISMAIL, SHAWKI SAIF

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,463

Applicant(s)

BURR, JEREMY

Examiner

Shawki S Ismail

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-28 are presented for examination.

References in applicant's IDS form 1449 have been considered.

Specification

2. The application contains numerous related applications (see pages 1), which contains missing information such as serial numbers. Applicant is requested to update the status of the related applications.

Claim Rejections - 35 USC §102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14 and 16-28 are rejected under 35 U.S.C. 102(b) as being anticipated by **Shah** International Publication Number **WO 01/50680 A2**.

5. As to claim 1, Shah teaches a device, comprising:

a receiver designed to receive a communication from at least one other device (Figure 1, Page 2, line 18 – Page 3, line 7);

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a transmitter designed to transmit messages to at least one other device;
an application software stored in the device (Figure 1, Page 2, line 18 – Page 3, line 7); and

a list of other devices including the application software (Page 13, lines 23-34, Page 8, lines 7-14).

6. As to claim 2, Shah teaches a device according to claim 1, wherein the list of other devices includes a route to each other device including the application software (Page 8, lines 15-32).

7. As to claim 3, Shah teaches a device according to claim 1, further comprising:

a memory (Figure 1, Page 2, lines 18-35)

a routing table stored in the memory, the routing table including the list of other devices including the application software (Page 5, lines 13-19).

8. As to claim 4, Shah teaches a device according to claim 3, wherein the routing table is designed to store a route to at least one other reachable device including the application software (Page 5, lines 13-19).

9. As to claim 5, Shah teaches a device according to claim 1, further comprising a list of other devices reachable from a second device, the list of other devices received from the second device using the receiver (Page 11, lines 1-12).

10. As to claim 6, Shah teaches a device according to claim 5, further comprising a processor designed to construct the list of other devices including

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the application software from the list of other devices reachable from the second device (Figure 1, Page 11, lines 1-12).

11. As to claim 7, Shah teaches a method for organizing a network, comprising:

operating a first device, the first device including an application software (Figure 1, Page 2 line 18 – Page 3, line 7);

identifying a second device with which the first device can communicate (Figure 1, Page 2 line 18 – Page 3, line 7);

determining whether the second device includes the application software (Figure 1, Page 2 line 18 – Page 3, line 7).

12. As to claim 8, Shah teaches a method according to claim 7, further comprising establishing a communications channel between the first and second device if the second device includes the application software (Page 11, lines 1-12).

13. As to claim 9, Shah teaches a method according to claim 8, further comprising:

receiving a list of devices reachable from the second device, the list including a third device (Page 13, lines 27-34);

determining whether the third device includes the application software (Page 13, lines 23-34); and

establishing a communications channel from the first device through the second device to the third device if the third device includes the application software (Page 11, lines 1-12).

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14. As to claim 10, Shah teaches a method according to claim 9, further comprising sending messages from the first device to the second device, to be relayed to the third device (Page 11, lines 1-12, Page 5, lines 13-19).

15. As to claim 11, Shah teaches a method according to claim 10, wherein sending messages from the first device to the second device includes specifying a path from the first device to the third device (Page 11, lines 1-12, Page 5, lines 13-19).

16. As to claim 12, Shah teaches a method according to claim 9, wherein establishing a communications channel from the first device through the second device to the third device includes establishing a communications channel from the first device through the second device to the third device without regard for any alternative route from the first device to the third device (Page 11, line 1-12, Page 5, lines 13-19).

17. As to claim 13, Shah teaches a method according to claim 9, wherein determining whether the third device includes the application software includes receiving from the second device an indication that the third device includes the application software (Page 15, lines 21-34).

18. As to claim 14, Shah teaches a method according to claim 9, wherein receiving a list of devices reachable from the second device includes receiving an indication that the third device includes the application software (Page 15, lines 21-34).

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19. As to claim 16, Shah teaches a method according to claim 8, further comprising: receiving a list of devices reachable from the second device; and forwarding the list of devices to a third device within range of the first device.

20. As to claim 17, Shah teaches a method according to claim 16, wherein receiving a list of devices reachable from the second device includes receiving a list of devices including the application software reachable from the second device.

21. As to claims 18-28, they contain essentially the same limitations as claims 7-17; therefore, they are rejected under the same rationale.

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Shah** International Publication Number **WO 01/50680 A2** and in view of Ricciulli U.S. Patent No. **6,473,405**.

24. As to claim 15, Shah teaches the claimed invention as described above. Shah does not explicitly teach changing the communications channel to an

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alternative communications channel if the alternative communications channel has a lower cost than the communications channel.

Ricciulli teaches a method and apparatus for the determination of whether to use a default network path or to instead use an alternate data-forwarding path based on real-time measurement of costs associated with the alternative paths (see abstract).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Ricciulli into the invention of Shah in order to minimize communication cost while maintaining transmission efficiency.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail
Patent Examiner
March 7, 2005



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER